IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 254/2007

INAYAT KHAN @ MULLA & ORS. Vs. STATE OF RAJASTHAN

DATE: 10.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. S.K. Gupta for the accused-petitioners.
Mr. B.K. Sharma, Public Prosecutor for the State.

****

The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the accused-petitioners against the order dated 20.12.2006 passed by the Additional Sessions Judge (Fast Track) No.2, Jhunjhunu in Sessions Case No. 217/2006 whereby the Court below has framed charges against the accused-petitioners for the offences under Sections 147, 323/149, 325/149, 336/149 and 307/149 IPC.

Learned counsel for the accused-petitioners submits that none of the injuries sustained by the injured were opined to be dangerous to life by the doctor and the police submitted charge-sheet for the offence under Sections 307, 325, 323, 336, 149 and 147 IPC despite of the fact that all the injuries were opined to be simple in nature. The injury sustained by

injured Parmeshwar was also opined by the doctor as grievous in nature by blunt for which the Court below has framed charge for the offence under Section 325/149 IPC and except this all the injuries sustained by the injured were opined to be simple in nature. In these circumstances even without any opinion by the doctors in respect of any injury to be dangerous to life in the ordinary course of nature, the Court below has framed charges against the accused-petitioners for the offences under Sections 147, 323/149, 325/149, 336/149 and 307/149 IPC vide its impugned order dated 20.12.2006 which deserves to be quashed and set-aside.

In support of his submissions learned counsel Mr. Gupta appearing for the accused-petitioners placed reliance on the judgment rendered by this Court in the case of **Sheesh Ram And Ors. Vs. State of Rajasthan, 2002 WLC (Raj.) UC 761,** wherein this Court has observed that accused were armed with barchi and sariya- According to FIR no grievous injury on any vital part- no injury caused by sharp weapon- no charge under Section 307 IPC is made out.

Mr. Gupta further relied on the judgment rendered by this Court in the case of **Ramoutar @ Outar & Ors. Vs. State & Anr., 2003 WLC (Raj.) UC 725,**

wherein it has been held that injury caused by a sword on head was found simple, therefore, charge under Section 307 in such circumstances is not sustainable and the case remanded for fresh orders.

I have heard rival submissions of the respective parties and have also gone through the impugned order dated 20.12.2006 by which charges have been framed against the accused-petitioners for the offences under Sections 147, 323/149, 325/149, 336/149, 307/149 IPC and carefully gone through the judgments relied by the learned counsel for the accused-petitioners.

In the instant case the accused with the common intention have inflicted injuries to Ratanlal, Shankar Lal and Prakash with the intention to cause death in which Ratan Lal received injury on his left and right forehead, Shanker Lal on his left forehead and Prakash on his left fronto-parietal region and these injuries were sufficient to cause death. Therefore, looking to the nature of injuries and looking to the facts and circumstances of the case, charges for the offences under Sections 147, 323/149, 325/149, 336/149 and 307/149 IPC have been framed against the accused-petitioners by the Court below vide its impugned order dated 20.12.2006.

The cases relied by the learned counsel for the accused-petitioners are not applicable to the facts and circumstances of the present case. In the case of **Sheesh Ram And Ors. (supra),** there was no grievous injury on any vital part, whereas in the instant case injuries are on forehead, as stated above, which is vital part.

Further Hon'ble the Supreme Court in the case of **Smt. Om Wati and another Vs. State, through Delhi Admn. and others, AIR 2001 SC 1507,** has held that framing of charges against accused- High Court should not interfere at initial stage of framing of charges merely on hypothesis, imagination and far-fetched reasons.

Upon careful perusal of the judgments referred by the learned counsel for the accused-petitioners as well as the judgment rendered by the Hon'ble Supreme Court in the aforementioned case of **Om Wati and another (supra),** at the stage of framing charge it is only to be seen by the Court below whether prima-facie case is made out against the accused or not? In the present case the injured persons received injuries on their head etc. which is vital part.

In such circumstances, I find no illegality or error apparent on the face of the record in the impugned order dated 20.12.2006 passed by the Additional Sessions Judge (Fast Track) No.2, Jhunjhunu by which charges have been framed against the accused-petitioners for the offences under Sections 147, 323/149, 325/149, 336/149 and 307/149 IPC, which requires no interference whatsoever by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

/KKC/